

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

FOLSOM CORDOVA UNIFIED SCHOOL  
DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH Case No. 2015090251

ORDER GRANTING REQUEST FOR  
CONTINUANCE AND SETTING  
MEDIATION, PREHEARING  
CONFERENCE AND DUE PROCESS  
HEARING DATES; AND DENYING  
REQUEST FOR ADMONISHMENT

On September 11, 2015, Parents filed a request to continue the dates in this matter based upon their desire to seek representation by counsel. On September 15, 2015, Folsom Cordova filed a notice of non-opposition to the request. No previous continuance has been sought or granted herein.

The same complaint was previously filed by Folsom Cordova as OAH Case No. 2015080581, and continued to the dates set forth below, but that matter was then voluntarily dismissed and refiled as this case. Parents seek to have Folsom Cordova admonished that such dismissal and refiling were improper.

*Request for Continuance*

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See Cal. Rules of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is:

☒ Granted. All dates are vacated. This matter will be set as follows:

Mediation:	October. 20, 2015, at 9:30 AM
Prehearing Conference:	November 20, 2015, at 10:00 AM
Due Process Hearing:	December 1, 2015, at 9:30 AM, and December 2 and 3, 2015, at 9:00 A.M., and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

*Request for Admonishment*

It is not unusual that special education due process complaints are dismissed and refiled for a variety of legitimate reasons. The record on this motion does not support the conclusion that this matter was dismissed and refiled for any improper purpose. Parents' request that Folsom Cordova be admonished for dismissing and refiling the matter is denied.

IT IS SO ORDERED.

DATE: September 16, 2015

/s/

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CHARLES MARSON  
Administrative Law Judge  
Office of Administrative Hearings